



U.S. Department of Justice

United States Attorney
Southern District of New York

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

September 1, 2023

BY ECF

Honorable Lewis A. Kaplan
United States District Judge
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street
New York, NY 10007-1312

Re: *United States v. Samuel Bankman-Fried*, S6 22 Cr. 673 (LAK)

Dear Judge Kaplan:

During the August 30, 2023 conference, the Court ordered that the defendant provide an additional advice of counsel disclosure by September 15, 2023, and directed the parties to confer and submit a joint letter today outlining the scope of the disclosure the defendant would make on that date. To that end, the Government submits this letter on behalf of the parties.

The parties propose that for any defense based on advice of counsel, reliance on counsel, presence of counsel, or other involvement of counsel, the defendant shall disclose to the Government the following on September 15, 2023:

- A description of the contours of the defense, disclosing the attorney(s) involved, the general subject matter of the communications (e.g., communications about a data retention policy for FTX Trading), the format of the communication (e.g., written or oral), the approximate dates or date range of the relevant communications.
- If the defendant intends to present a formal advice of counsel defense, he will also disclose for any such defense the information provided to the attorney(s), the advice (if any) conveyed to the defendant by the attorney(s), and any other individuals present for or involved in the communications.
- Whether the defendant is asserting a formal advice of counsel defense, or a good faith defense based on the involvement or presence of counsel.
- The count or counts of the S6 Indictment to which the asserted defense applies.
- To the extent the communications may be privileged, what type of privilege applies and who the defendant understands holds the privilege.

The defendant will disclose materials supporting the defense(s), as well as any materials in the defendant's possession that would tend to undermine or impeach the defense(s), on September 18, 2023, which is the deadline for the defendant's initial disclosure of exhibits.

Respectfully submitted,

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Cc: Defense Counsel (by ECF)